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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE MANUEL ANCHONDO,

Defendant and Appellant.

E066551

(Super.Ct.No. RIF092487)

O P I N I O N

APPEAL from the Superior Court of Riverside County. Charles J. Koosed, Judge.
Affirmed.

Richard Schwartzberg , under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant, Jose Manuel Anchondo, filed a petition for resentencing
or modification of sentence, which the court denied. After defendant filed a notice of
appeal, this court appointed counsel to represent him. Counsel has filed a brief under the

authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and identifying one potentially arguable issue: whether defendant was entitled to a youthful offender parole hearing pursuant to Penal Code section 3051. We affirm.

I. PROCEDURAL HISTORY¹

A jury found defendant guilty of attempted voluntary manslaughter as a lesser included offense to the charged offense of attempted first degree murder. The jury also found defendant guilty of shooting at an occupied structure and shooting at an unoccupied motor vehicle. Finally, the jury found true an enhancement allegation as to each count that defendant had personally used a firearm.² On December 23, 2003, the court sentenced defendant to 17 years 2 months' incarceration.

On June 22, 2016, defendant filed a petition for modification of sentence, resentencing, and/or a stay of the enhancement. Defendant averred that at the time he committed the offense, he was 19 years old. Defendant reported that the California Department of Corrections and Rehabilitation had informed him on April 8, 2016 that defendant's earliest possible release date was July 30, 2017, and that he would not receive a youth offender parole hearing during that parole cycle. Defendant requested immediate release on parole pursuant to the youth offender parole hearing statute. On

¹ We take judicial notice of our opinion in case No. E035022, defendant's appeal of the original judgment. (Evid. Code, § 459.)

² Counsel incorrectly states in his brief that defendant pled guilty pursuant to a plea agreement.

June 22, 2016, the court denied defendant's petition, finding defendant ineligible for the relief requested.

II. DISCUSSION

We offered defendant an opportunity to file a personal supplemental brief, which he has not done. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues. (*In re Prather* (2010) 50 Cal.4th 238, 243-245 [proper remedy from any adverse decision rendered by the Board of Parole Hearings is addressed to the superior court as a petition for writ of habeas corpus]; see *Curl v. Superior Court* (1990) 51 Cal.3d 1292, 1303 [petitioner bears the burden of proof on a petition to the court].)

III. DISPOSITION

The judgment is affirmed.

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McKINSTER
J.

We concur:

HOLLENHORST
Acting P. J.

CODRINGTON
J.